



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

EVELYN A. DEFILLO
DEFILLO & ASSOCIATES, INC.
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR, FL 34685

COPY MAILED

AUG 28 2006

OFFICE OF PETITIONS

In re Application of	:
Oliver Ralf Petri	:
Application No. 10/501,085	:
Filed: July 9, 2004	: DECISION ON
Title of Invention:	: PETITION
MICROWAVE MIXER/DRYER REACTOR FOR	:
INDUSTRIAL USE	:

This is a decision in response to the correspondence filed June 21, 2006, to withdraw the holding of abandonment of the application. The correspondence is properly treated as a renewed petition under 37 CFR 1.181.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 27, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 28, 2005. A Notice of Abandonment was mailed December 16, 2005.

Applicant filed a petition on February 27, 2006, wherein Applicant averred non-receipt of the Notice.

Decision dismissing the February 27, 2006 petition

A Decision dismissing the February 27, 2006 petition was mailed April 13, 2006. The Decision informed Applicant that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of

abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.
2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

Applicant was informed that Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed¹.

Applicant was advised to file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

The June 5, 2006 renewed petition

Applicant filed a renewed petition on June 5, 2006 and provided a statement that "[t]he Applicant states that he had search[ed] the file jacket and docket records for the above-identified application and the search indicates that the Communication was never received by Applicant." Petition at p.2.

This statement was included in the body of the petition, which was not executed by the Applicant. Also included in the body of

¹ It is noted that Applicant has filed with the petition copies of papers received from this Office; however, there is no assertion that the papers filed with the instant petition constitute Applicant's file jacket and docket records. As such, a copy of the file jacket and docket records where the non-received Notice would have been docketed and entered had it been received, is required.

the petition, and not as a separate paper, were instructions appointing an attorney and changing the correspondence address.

Decision dismissing the June 6, 2006 petition

The renewed petition filed June 6, 2006 was dismissed in a Decision mailed July 17, 2006. The Decision dismissing the petition required a statement (of non-receipt of the Office communication) from a person with first hand knowledge of the facts alleged, and also informed Applicant that a proper Power of Attorney and Change of Correspondence Address was required.

The June 17, 2006 petition

Applicant files a petition on June 17, 2006 and includes the appropriate statement from the Applicant, attesting to a fact that a search of the file jacket and docket records indicate that the Office communication was not received.

Applicant also notes that a Power of Attorney executed by the Applicant was in fact filed and included among the petition papers filed June 6, 2006. A review of the petition reveals that a properly executed Power of Attorney and Change of Correspondence Address was included among the petition papers filed June 6, 2006, but was inadvertently included as a petition and not as a Power of Attorney document.

The petition is granted.

The Power of Attorney and Change of Correspondence Address has been entered and made of record.

A refund of the fee for the petition under 37 CFR 1.137(b) has been scheduled via treasury check.

The file is being referred to Publishing Division for processing into a patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions